

**DRAFT MINUTES
GAMING ADVISORY COUNCIL**

*March 28, 2008
Helena, Montana*

Please note: This is a summary of the Council meeting. The meeting in its entirety is on tape at the Gambling Control Division office at 2550 Prospect Avenue, Helena, Montana. Exhibits are on file in the office of the Gambling Control Division.

COUNCIL MEMBERS PRESENT

Sen. Joe Tropila
Mark Kennedy
Pam Kennedy
John Tooke

Rep. Mark Blasdel
Tim Carson
Steve Morris
Bob McAnally

COUNCIL MEMBERS ABSENT

Nick Murnion (excused)

DIVISION STAFF PRESENT

Gene Huntington
Al Arvish
Cregg Coughlin

Rick Ask
Ben Kamerzel
Kathy Fisher

SUMMARY OF COUNCIL ACTION

- ♠ A sub-committee was appointed to develop proposed legislation to provide a vgm income tax credit for machines that end the quarter in the red.
- ♣ The Council moved to advance a basic raffle cleanup bill.
- ♥ A sub-committee was appointed a sub-committee to work on long term revision of the raffle statute.
- ♦ The Council moved to approve the proposed bingo legislation.
- ♠ The Council moved to approve the associated business legislation.
- ♣ The Council voted unanimously to support the proposed rules relating to scheduling connection for multi-game agreements and refund of permit fees.
- ♥ A sub-committee was appointed to develop recommendations for how to approach vgm obsolescence and technological changes in the vgm market.
- ♦ The Council tentatively set the next meeting for July 25, 2008, in the Flathead.

CALL TO ORDER AND ROLL CALL

Chairman Tooke called the meeting to order at 9 a.m. All members were present except for Nick Murnion who was excused. The minutes from the November 2, 2007 meeting were adopted unanimously. Reverend George Harper, original member of the GAC was introduced. Shauna Helfert, Department of Revenue, Katie Bean, IntraLot, Neil Peterson, GIA, and Senator Lane Larson, new GAC member were also introduced.

OLD BUSINESS

Casino Zoning Committee Report

Mr. Morris reported that after conferring in a conference call, the zoning committee agreed that the Council should leave this issue alone at this time.

Negative Tax Estimate

Gene Huntington discussed the negative tax estimate. When the question of deducting reported losses was raised several years ago, the Division asked the Attorney General's office for an opinion on whether or not losses from one machine should be allowed as a deduction against income. An opinion was issued by the Attorney General's office stating that because the statute does not clearly or specifically provide for losses, and the agency responsible for administering the tax has never allowed the deduction, an act of the legislature would be required in order to allow for a loss deduction. Mr. Huntington went on to explain that allowance for tax credits would reduce revenue to the General Fund. For first quarter FY06 a net loss was reported on 351 (out of 18,000) machines. The loss per machine averaged between \$167 and \$333. Tax savings would have been \$25 to \$50 per location reporting a loss from a machine if operators could have written these losses off. Mr. Huntington stated that the Division estimates if a tax credit were allowed, that the annual loss to the general fund would be \$25,000 to \$45,000. Mr. Huntington said that Mont. Code Ann. 23-5-610 would have to be amended to provide for a tax credit. [Note: subsequent to the meeting, a revised estimate based on 2nd quarter FY 2008 reports showed tax savings of \$72 and annual tax loss of \$104,832 to the general fund.]

Mr. Tooke stated that the vgm tax should be similar to income taxes and that the loss should be carried forward because it is a question of fairness. Mr. Carson stated that there should be an easy way to resolve this with electronic reporting. Rich Miller stated that if the tax collection is not in strict compliance with 23-5-610, rule changes should be made.

A motion was made by Pam Kennedy to establish a sub-committee to bring a formal proposal forward on this issue. The motion passed unanimously. Chairman Tooke appointed Tim Carson, Mark Blasdel, and Bob McAnally to the committee.

Death Of Licensee

Mr. Huntington reported that the Division studied this issue internally and discussed it with other parties. The basic issue is that the Division needs timely notice of the death of a licensee. Mr. Carson stated that it is an educational issue for the industry. A pamphlet detailing the procedures in case of the death of a licensee would be beneficial.

LEGISLATIVE DRAFTS

Raffles

Mr. Huntington discussed the proposed raffle changes: adding political and public or private schools or colleges under the definition of nonprofit organization and stating that the value of a prize awarded for an individual ticket for a raffle conducted by a religious corporation, sole or nonprofit organization may equal or exceed \$5,000 period.

Dennis Unsworth, Commissioner of Political Practices, stated that campaign contribution limits would include the cost of raffle tickets and there would be an additional paperwork burden included in this concept. Mr. Unsworth also stated that 23-5-413(6)(b) would need to be changed because a political campaign is not considered nonprofit.

Sheryl Wood, Associate Director, Montana Association of Counties, explained that the counties want out of the raffle business. She stated that there is no enforcement and 90% of the counties do not want to hassle with raffles; very few do follow-up reporting. MACO did a county raffle survey and Madison County stated that raffle permits generated approximately \$2500 - \$3500 in revenue for their county. The other counties reported \$100 or less in revenue from raffle permits.

Several motions were made and failed concerning raffles until a motion was made to advance a basic cleanup bill and to have a subcommittee work on long term revision of the raffle statute. The subcommittee is comprised of Pam Kennedy, Mark Kennedy, and Mark Blasdel.

Bingo

Mr. Huntington explained the proposed bingo changes. Mr. Ehli, Big B Bingo, stated that he had sent out a letter to other bingo operators describing the changes and asking for support. Mr. Huntington stated that the main change is that if a non-standard bingo card is going to be used it must be approved for play by the Division. A motion was made to approve the bingo changes; the vote was unanimous in favor of the motion.

A License Category for Associated Businesses

Mr. Huntington stated that on two occasions in recent years the Division has felt it was necessary to license businesses that are not directly in the gambling business. In one case it was the software companies who make the accounting software used for online reporting and in the other case an out of state firm that recycles gambling machines. In both of these cases the Division had to try to fit these businesses into existing license categories. The Division has broad authority to investigate anyone involved in the gambling business. The Division needs to be able to license these entities and it would be convenient for the Division to have a general Associated Gambling Business license with a nominal fee. A motion was made to approve the associated business legislation; the vote was unanimous in favor of the motion.

PROBLEM GAMBLING DISCUSSION

Donna Johnson, Executive Director, Montana Council on Problem Gambling, explained that the Council is a free program for the entire family, which is unheard of in the United States. Each counselor has at least 30 hours of training dealing with problem gambling. In 2000 there were 9 providers for 110 groups, in 2007 there were 31 providers for 792 groups, 221 family groups. Ms. Johnson demonstrated the Problem Gambling web-site and explained that credit gambling violations have resulted in contributions to the Council.

PROPOSED RULES

Scheduling Connection for Multi-Game Agreements

Mr. Huntington reviewed the rule relating to the procedure for providing notice to multi-game machine owners and lessees to connect to an approved accounting and reporting system. Mr. Huntington stated that 72% of establishments are reporting online. The Division has proposed a notification and begin-reporting schedule based on districts in the state. People will have a six month time frame to sign up and each area of the state will have a public education program. Mr. Tooke asked how many machines have never had multi-game machines? Mr. Huntington stated that about 15% of the machines fit in that category. Mr. Carson explained that these machines are becoming obsolete due to bill acceptors not working etc. The Council voted unanimously to support the proposed rule change.

Refund of Permit Fees

Mr. Huntington explained the proposed rule dealing with the refund of permit fees under certain circumstances. The rules provided that you could not get a refund if you made a mistake or changed your mind after you got a permit. With online permitting people can make mistakes really fast. This rule will allow for a refund if the application is denied or

withdrawn before issuance of a permit or upon written request if an applicant can show that the permit was issued as the result of an inadvertent input error in the electronic permitting system and the machine has not been placed into service after issuance of the permit. The Council voted unanimously to support the proposed rule change.

PLANNING FOR VIDEO GAMBLING MACHINE OBSOLESCENCE

Mr. Huntington discussed the issues relevant to planning for video gambling machine obsolescence such as printers, bill acceptors etc. Mr. Huntington explained that a process needs to be developed through the Council to plan for maintaining a competitive supply of video gambling machines for Montana gambling operators and to identify all the issues and alternatives.

Mr. Tooke explained that Montana needs to maintain a healthy environment for the manufacturers and route operators who are the biggest purchasers of these machines. Establishment concerns need to be addressed and we need to get to try to get ahead of the curve on obsolescence issues. Mr. Tooke stated that he and Gene would like the process to begin with a conference in Billings that involves all sectors of the industry.

Mr. Carson stated that the costs to develop a Tier II accounting system cost his company considerably. Mr. Carson stated that the technology to change the bill acceptors for the new \$5 bills was costly. Mr. Carson also explained that there are a limited number of impact printers available.

Mr. Staples requested that all of the involved sectors should be included in this discussion, including licensees. Terry Guerin asked that the Council keep an open mind, not try to legislate competition, and look at emerging technology in other jurisdictions to help manufacturers remain in Montana. He went on to explain that vgms built after 1997 are supported by new bill acceptors, but machines built between 1987 and 1997 are not.

Thom Propp, Fleetwood Gaming, Fleetwood Manufacturing stated that Fleetwood is the one manufacturer that only builds machines for Montana. Fleetwood has developed emerging technologies that they cannot use yet in Montana, but they are holding them close to their chest and protecting them and hoping that they will be able to use them at some point in Montana.

Blaine Bowman, Spielo, explained that vgm cabinet designs are \$400 more expensive in Montana due to the use of Ithaca impact printers in the machines. Mr. Bowman stated that Montana and North Dakota are the only jurisdictions that utilize that impact printer, other jurisdictions have changed to thermal printers or a central system. Thin cabinets do not have space for thermal printers.

Motion was made and the vote was unanimous to establish a sub-committee to develop recommendations for how to approach obsolescence and technological changes in the

vgm market. The subcommittee is composed of Mark Kennedy, Nick Murnion, and Mark Blasdel.

ADMINISTRATOR'S REPORT

Mr. Huntington explained the DOJ GCD website provides a lot of reports. Mr. Huntington also explained that the Biennial Report will be using graphs instead of tables and that vgm income issues showing taxes generated by county and cities will have to be limited to the counties and larger cities because increasingly small towns have only one bar and individual bar information cannot be disclosed.

NEW BUSINESS

Mr. Carson requested that the Division review the time frame on retention of audit tapes. He stated that a change to one year retention for Tier II accounting should be feasible. Mr. Tooke asked how this question is affected by the high integrity reporting system that is in place at Tier II. Mr. Ask explained that the retention rate was lowered from three years to two years and the Division will continue to monitor the system and test it and will look at changing the retention requirements to one year in the future.

FINAL BUSINESS

Rich Miller explained that this would be his last GAC meeting and thanked the Gambling Control Division and Council for a very rewarding experience over the years.

The Council tentatively scheduled their next meeting on July 25, 2008, somewhere in the Flathead. [Note: Subsequent to the meeting, the July 25, 2008 meeting was determined to be held in Kalispell.]

The meeting adjourned at 1:27 p.m.